IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.17789 of 2008
PASUPATI NATH GUPTA
Versus
STATE OF BIHAR
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7. 14.08.2008 Heard learned counsel for the petitioner and State as well as complainant.

The petitioner is an accused in a case for offences under Sections 420, 408, 409, 466, 468, 471 and 120B/34 of the Indian Penal Code.

It is submitted on behalf of the petitioner that he being the Mukhiya. The allegations made in the complaint by the complainant to the effect that although he was not engaged for doing the work however money was withdrawn for payment by the Mukhiya as well as the Panchayat Secretary.

Further allegation is that the petitioner was also a party for engaging the complainant and for making the payment squarely lies on the panchayat Secretary and not this petitioner who is the Mukhiya although the money was withdrawn under the joint signature of Panchayat Secretary and Mukhiya and therefore petitioner having implicated in this case for ulterior purposes.

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Counsel for the complainant, on the other hand, has filed affidavits stating to the effect that it was the joint action of the Mukhiya as well as the Panchayat Secretary to withdraw the public money against the persons who were never engaged to work however they were joined to have engaged and payments made to them. Therefore, petitioner as well as Panchayat Secretary both are equal reliable for

criminal prosecution. It is further submitted that apart from that there are good number of criminal cases as detailed in the counter affidavit as well as the supplementary affidavit filed on behalf of complainant to the effect that in the most of the cases, the offences alleged to have been committed by the petitioner of cheating, forgery and in some of the case after investigation police submitted the charge-sheet binding prima-facie materials against the petitioner. In other words, submission is that the petitioner is having a criminal antecedent.

Considering the submission of the parties and the affidavits filed thereon and the nature of allegations attributed, I am not inclined to allow this anticipatory bail and the same is accordingly, rejected.

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V.Pandey

(Shailesh Kumar Sinha,J.)

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